

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

WOODWARD GARDENS, L.L.C.,

Debtor.

Case No. 09-41069

Chapter 11

Judge Thomas J. Tucker

ORDER DISMISSING CHAPTER 11 CASE

The Debtor has not filed a plan and disclosure statement, which was due to be filed no later than May 18, 2009. Nor has Debtor filed a motion to extend the May 18, 2009 deadline, either by the April 16, 2009 deadline for such a motion, or otherwise. *See* Order Establishing Deadlines and Procedures,” filed February 12, 2009 (Docket # 23, the “Scheduling Order”) at ¶¶ 1(c), 1(i), 10.

The Scheduling Order states, in ¶ 1(i), that the deadline for the Debtor to file a motion to extend the time to file a plan is April 16, 2009. Paragraph 10 of the Scheduling Order states, in pertinent part, that:

Any such motion [to extend the deadline to file a plan and disclosure statement] must be filed by the deadline in paragraph 1i. The motion must demonstrate by affidavit or otherwise that the request is necessary due to extraordinary and unforeseen circumstances.

The Scheduling Order states, in ¶ 2, that if the Debtor fails to meet the deadline for filing a combined plan and disclosure statement, “the case may be dismissed or converted to Chapter 7 pursuant to 11 U.S.C. § 1112(b)(4).” *See* 11 U.S.C. § 1112(b)(4)(J); *see also In re Tax Shop, Inc.*, 173 B.R. 605, 607 n.3 (Bankr. E.D. Mich. 1994)(“The Court's authority to dismiss a Chapter 11 case *sua sponte* in appropriate circumstances is clear under 11 U.S.C. § 105(a),

which grants bankruptcy judges the broad authority to take action ‘necessary or appropriate ... to prevent an abuse of process.’”); *In re Nikron, Inc.*, 27 B.R. 773, 777 (Bankr. E.D. Mich. 1983)(holding that “a [bankruptcy] court has the sua sponte power to convert or dismiss a chapter 11 case”)(relying on the court’s “inherent power and duty to control its docket, to preserve its integrity, and to insure that the legislation administered by the court will accomplish the legislative purpose”); *In re Great American Pyramid Joint Venture*, 144 B.R. 780, 789 (Bankr. W.D. Tenn. 1992)(“[A] bankruptcy judge may, under section 105(a), as amended, convert or dismiss a case sua sponte even though section 1112(b) explicitly requires that the request be made by a party in interest.”)

Accordingly,

IT IS ORDERED that this Chapter 11 case is dismissed under 11 U.S.C. §§ 1112(b)(4) and 105(a).

Signed on May 21, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge